



Australian Government



TAX
PRACTITIONERS
BOARD

Compliance: the year in review

Presented by

Peter de Cure, TPB Chair

Ryan McDonald, Compliance Director

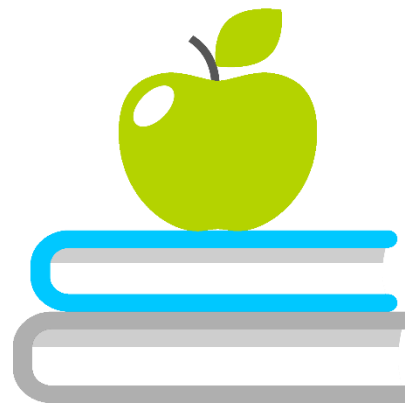
Welcome

'In the spirit of reconciliation, we acknowledge the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past, present and emerging. We extend that respect to all Aboriginal and Torres Strait Islander peoples today.'

Access the presentation slides : tpb.gov.au/webinar-hub

What we will cover today

- ✓ 2023-24 compliance outcomes
- ✓ Personal tax obligations strategy
- ✓ Our shared compliance focus
- ✓ Expanded compliance program
- ✓ Case studies
- ✓ Questions



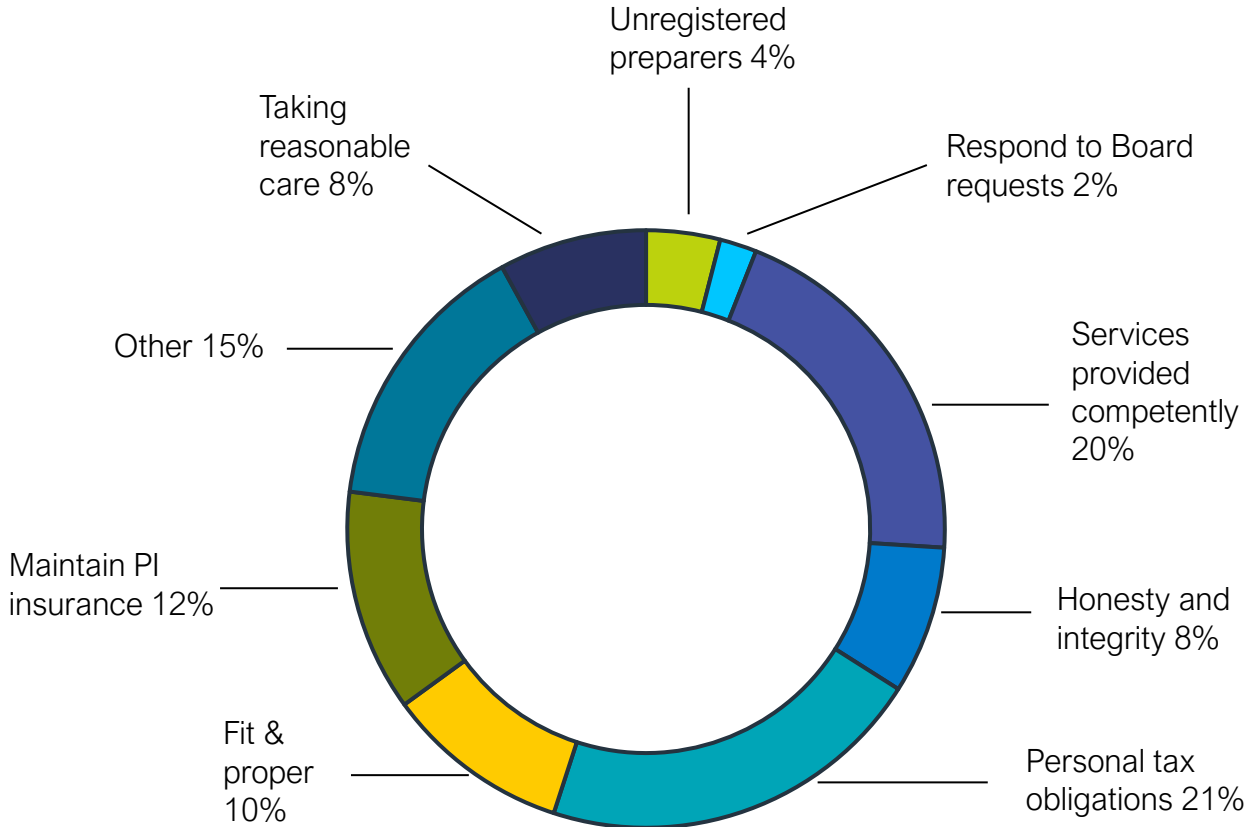
Tax practitioner compliance



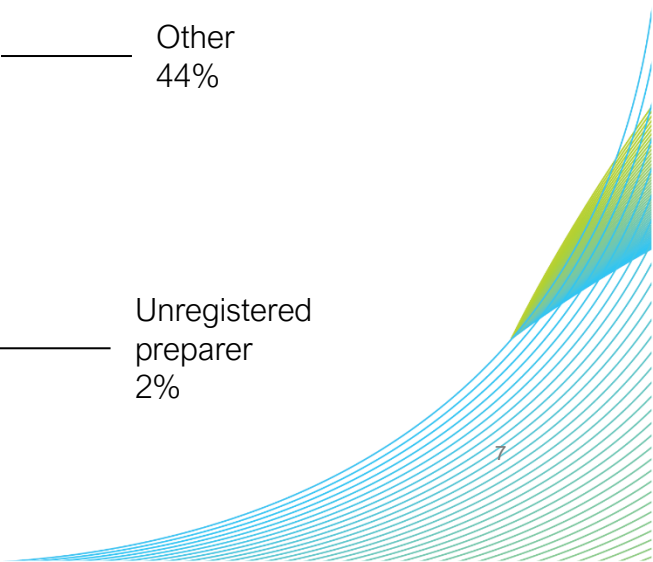
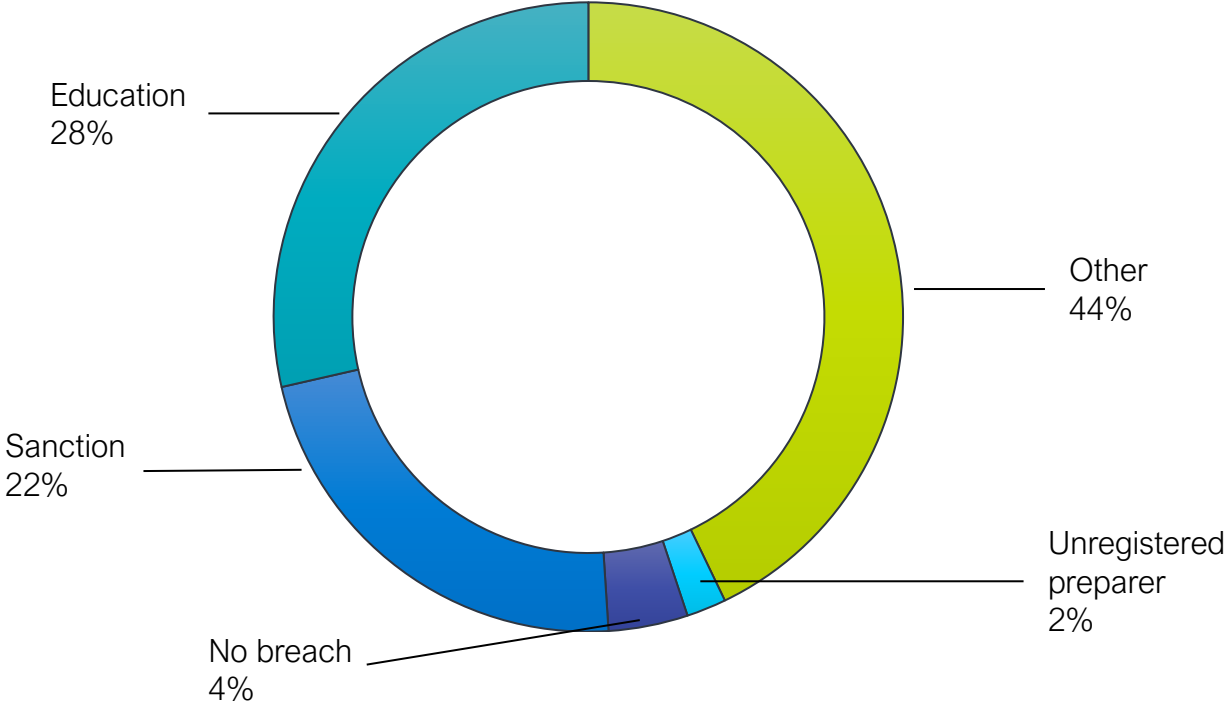
- The vast majority of tax practitioners are compliant.
- 89% of consumers have a high level of trust in their tax practitioner.
- There are a small group of tax practitioners that don't comply, and we classify these tax practitioners as high-risk.
- We need to take firm action to safeguard the integrity of the tax and super systems.

Compliance outcomes 2023-24

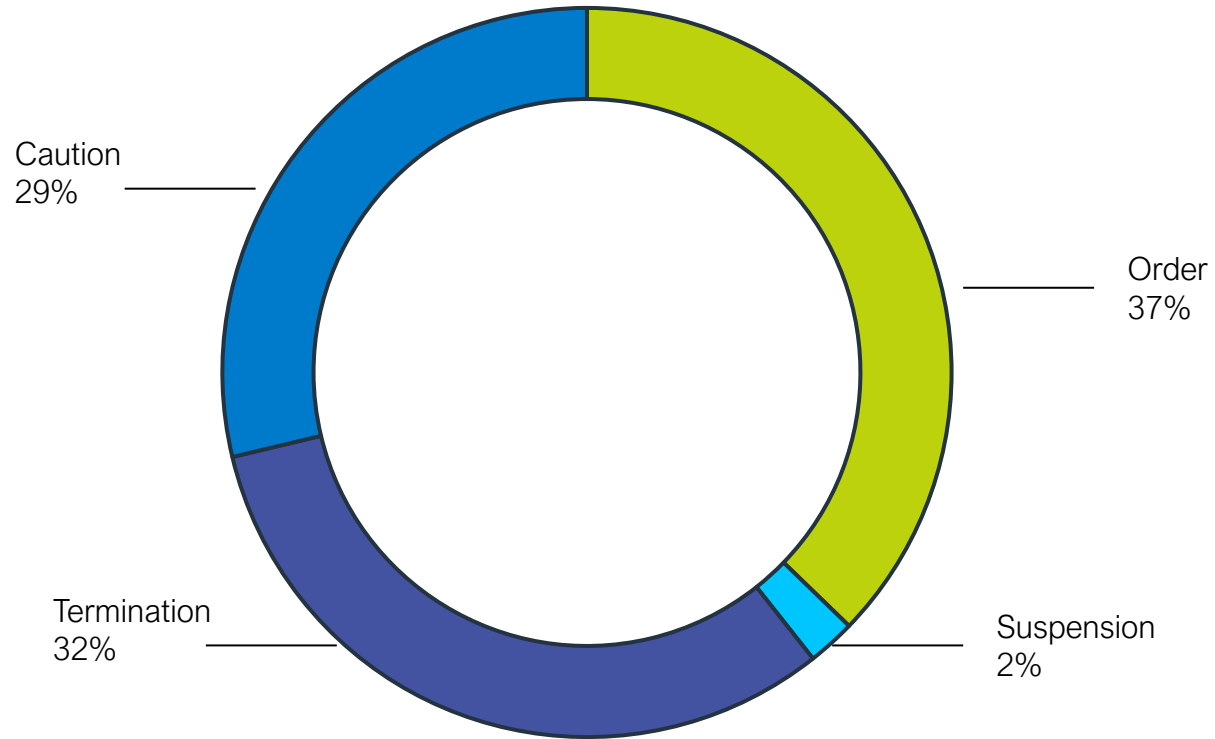
Compliance cases 2023-24



Compliance outcomes 2023-24



Sanctions in 2023-24



Unregistered preparers

Complaints about an unregistered preparer are risk assessed. This may include:

- education and face-to-face interaction to influence behaviour
- cease and desist correspondence
- notification of the suspected client base
- proactive work to address compliance issues
- investigation to limit the influence over the tax system
- formal litigation, seeking civil penalties or injunctive relief
- work with partner agencies to pursue criminal prosecution.

Favourable Federal Court decision



- Jayden Van Dyke was ordered by the Federal Court to pay \$1.8 million in penalties.
- He illegally charged clients \$500 to prepare and lodge returns using their MyGov account.
- He engaged in 3,300 contraventions of the TASA.
- The Court imposed a permanent injunction restraining him from providing tax agent services.
- Mr Van Dyke exploited vulnerable taxpayers, and many clients had excessive and unsubstantiated deductions, exposing them to penalties and unpaid taxes.

Personal taxation obligations

Poll



What entities are covered when we refer to ‘your personal tax affairs’?

1. The tax affairs of registered tax practitioners (individual or non-individual).
2. The tax affairs of related entities of which you are a director, partner or trustee.
3. The tax affairs of related companies of which you are a minority shareholder.
4. The tax affairs of your spouse.

Personal tax obligations findings

Obligation type	Number of tax practitioners
Outstanding tax debts, exceeding \$10,000 without an ATO payment plan.	2,000
One or more outstanding ATO lodgement (including income tax returns and activity statements).	5,000
One or more outstanding ATO lodgement (including income tax returns and activity statements) and outstanding tax debts exceeding \$10,000, without an ATO payment plan.	700

Shared compliance focus



Working with the ATO



- While we are independent of the ATO, we work collaboratively to ensure the integrity of the tax and super system.
- Both agencies help maintain community confidence by promoting a capable and well-regulated tax profession.
- We regularly share information on areas of mutual interest.
- This allows tax practitioners who pose a threat to the community to be more quickly identified and addressed.
- We're using data-driven strategies to target our combined efforts and expand our scope.

Desired outcome



- Use real-time reporting and compliance governance.
- Leverage the ATO's compliance intelligence and risk assessment tools.
- Reduce the number of tax practitioners with outstanding tax obligations.
- Take action against the most egregious tax practitioners.
- Enhance the integrity of the tax system.
- See an increase in consumer confidence in the regulatory system.
- Enhance taxpayer compliance.

Fraud fusion taskforce



- The Fraud Fusion Taskforce led by the National Disability Insurance Agency and Services Australia delivers a whole-of-government capability to detect and respond to potential fraud and criminal activity against the NDIS.
- Taskforce members work together to uncover, investigate and prevent fraud.
- Our objectives as part of the taskforce are to:
 - improve how government agencies work together to detect and prevent fraud and serious organised crime; and
 - strengthen government payment systems, making it easy to do the right thing and harder to do the wrong thing.

Expanded compliance program



Expanded compliance program overview



- Commenced on 1 July 2023 and will run for 4 years.
- Focus on tax practitioners who display high-risk attributes engaging in tax avoidance or evasion.
- Target those that have the greatest risk to the community.
- Identifying and addressing higher risk tax advisers, including those operating outside the system.

Case studies



Case study 1



- Tax agent, Gavin Swan, was involved fraudulent activities, including theft and money laundering of approximately \$600,000 from over 100 vulnerable clients.
- Mr Swan and an associated entity, Absolute Accounting Services, omitted his clients, the TPB and the ATO, and he failed to meet his professional obligations.
- He has been sentenced to 5 years in jail with a non-parole period of 3 years for fraudulent behaviour and dealing with the proceeds of crime.
- Mr Swan and Absolute Accounting's registrations were terminated.

Case study 2



- A tax agent company breached multiple Code items, including:
 - failing to act lawfully by using clients' information to create 51 false entities without their knowledge and authorisation
 - lodging over 70 fraudulent BAS to obtain GST refunds of approx. \$280,000, which was deposited into bank accounts they controlled
 - lodging a further 36 BAS resulting in GST refunds in excess of \$550,000 being stopped by the ATO.
- The company's registration was terminated with a 5-year ban and the tax agent was sanctioned with an order to complete a course of education.

Case study 3



- A tax agent company's sole director and supervising agent failed to ensure a tax agent service that was provided was provided competently.
- The tax agent failed to ensure the preparation and lodgement of tax returns for clients were prepared accurately.
- This resulted in the ATO finding overclaimed or incorrect deductions.
- There was no reasonable care taken and no adequate processes in place.
- We issued a written caution and an order to complete a course on the TASA.

Case study 4



- The Administrative Review Tribunal rejected an application by former tax agent, Philippe Colin to overturn our decision to terminate his registration and impose a 4-year ban from reapplying.
- Mr Colin lodged amendments to clients' income tax returns without their authorisation and claimed unsubstantiated deductions.
- He failed to pay his own tax debts by the due dates and did not correctly report amounts in his tax returns and BAS.
- Mr Colin also advertised his company could provide tax agent services when it was not legally able to.
- He showed total disregard for his obligations and continued to breach the Code after being sanctioned.

Case study 5



- An individual tax practitioner became the supervising tax agent for 4 companies without the intention or ability to adequately and competently supervise the tax agent services provided by the companies.
- The tax practitioner failed to take action to prevent the unethical conduct of the unregistered preparer associated with the company.
- This allowed the unregistered preparer to instruct and persuade others working for the company to carry out unethical work.
- The company instructed the unregistered preparers to not ascertain clients' real tax position during the preparation of returns.
- This resulted in tax shortfalls and penalties being imposed on 20 clients.

Case study 6



- An individual BAS agent was found to have breached Code items 1, 2, 8 and 14.
- We found they made false statements by not declaring overdue tax obligations and regarding meeting the CPE requirements.
- They also failed to:
 - lodge multiple returns by their due dates
 - pay outstanding tax debts as and when they fell due
 - complete the minimum level of relevant CPE
 - respond to requests and directions from the Board.



Questions

Stay in touch with the TPB



tpb.gov.au



facebook.com/TPB.gov



tpb.gov.au/contact



linkedin.com/tax-practitioners-board



Australian enquiries
1300 362 829



twitter.com/TPB_gov_au

Overseas enquiries
+61 2 6216 3443



youtube.com/TPBgov

Our enquiry lines are open
Monday to Friday 9 am to 5 pm
(Sydney time)

Disclaimer

The information included in this webinar is intended as a general reference for users. The information does not constitute advice and should not be relied upon as such.

While the Tax Practitioners Board (TPB) makes every reasonable effort to ensure current and accurate information is included in this webinar, the TPB accepts no responsibility for the accuracy or completeness of any material contained in this webinar and recommends that users exercise their own skill and care with respect to its use.

Links to other websites may be referenced in this webinar for convenience and do not constitute endorsement of material on those sites, or any associated organisation, product or service.

Copyright is retained in all works contained in this webinar. Unless prior written consent is obtained, no material may be reproduced, adapted, distributed, stored or transmitted unless the reproduction is for private or non-commercial purposes and such works are clearly attributed to the TPB with a copy of this disclaimer attached.